

59-14-214 Nonparticipating manufacturer equity assessment.

- (1) As used in this section, "nonparticipating manufacturer" means a tobacco product manufacturer, as defined in Section 59-22-202, that is not a participating manufacturer within the meaning of Subsection II(jj) of the Master Settlement Agreement, as defined in Section 59-22-202.
- (2)
 - (a) There is levied an equity assessment, at the rate of 1.75 cents on each cigarette, for all cigarette packages of nonparticipating manufacturers to which a stamp is affixed as required under Section 59-14-205.
 - (b) The equity assessment imposed by this section is in addition to all other assessments, fees, and taxes levied under existing law.
 - (c) The equity assessment imposed by this section shall be paid by affixing a stamp in the manner and at the time described in Section 59-14-205.
 - (d) Except as otherwise provided in this section, the equity assessment shall be collected, paid, administered, and enforced in the same manner as the tax on cigarettes levied by Section 59-14-204.
- (3) The purposes of this equity assessment are:
 - (a) to recover health care costs to the state imposed by nonparticipating manufacturers;
 - (b) to prevent nonparticipating manufacturers from undermining the state's policy of reducing underage smoking by offering cigarettes for sale substantially below the prices of cigarettes of other manufacturers;
 - (c) to protect funding, which is reduced as a result of the growth of nonparticipating manufacturer cigarette sales, for programs funded in whole or in part by payments to the state under the Master Settlement Agreement, as defined in Section 59-22-202;
 - (d) to recoup settlement-payment revenue lost to the state as a result of nonparticipating manufacturer cigarette sales; and
 - (e) to fund enforcement and administration of:
 - (i) Chapter 14, Part 6, Tobacco Manufacturer Stamping Enforcement Provisions;
 - (ii) Sections 59-22-201 through 59-22-203, related to nonparticipating manufacturers; and
 - (iii) the equity assessment imposed by this section.
- (4) Each manufacturer, distributor, wholesaler, or retail dealer who under Section 59-14-205 affixes a stamp to a package of cigarettes, shall report quarterly to the commission for each place of business, the number and denominations of stamps affixed to individual packages of nonparticipating manufacturer cigarettes sold by the manufacturer, distributor, wholesaler, or retail dealer in the preceding quarter, including the manufacturer and brand family.
- (5) A person required to file a report under this section who fails to timely file the report, or who provides false or misleading information on, or in relation to, the report:
 - (a) is guilty of a class B misdemeanor; and
 - (b) is subject to:
 - (i) revocation or suspension of a license under Part 2, Cigarettes; and
 - (ii) a civil penalty, imposed by the commission, in an amount that does not exceed the greater of:
 - (A) 500% of the retail value of the cigarettes for which an accurate report was not filed; or
 - (B) \$5,000.

Amended by Chapter 148, 2013 General Session